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RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEHC/DEPT OF LABOR WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

UNCLAS KUALA LUMPUR 000147

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SENSITIVE
SIPDIS

DEPT FOR G/TIP, G, INL, DRL, PRM, EAP/RSP, EAP/MTS
PASS TO USAID

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TAGS: [PHUM](#) [PREF](#) [ELAB](#) [SMIG](#) [KCRM](#) [KWMN](#) [KFRD](#) [ASEC](#) [MY](#)
SUBJECT: MALAYSIA'S EIGHTH ANNUAL TRAFFICKING IN PERSONS
REPORT

REF: A. STATE 2731 - PREPARING THE TIP REPORT
[1](#)B. 07 STATE 164216 - TIER 3 ACTION PLAN FOR MALAYSIA
[1](#)C. 07 STATE 150188 - GUIDELINES FOR THE MINIMUM
STANDARDS OF THE TVPA
[1](#)D. KUALA LUMPUR 97 - TIP EXPERT DISCUSSES NEW
ANTI-TIP LAW
[1](#)E. 07 KUALA LUMPUR 1731 - CATHOLIC CHURCH ANTI-TIP
EFFORTS
[1](#)F. 07 KUALA LUMPUR 1640 - ALLEGED SEX TRAFFICKING
ON LABUAN ISLAND
[1](#)G. 07 KUALA LUMPUR 1557 - EAST MALAYSIA POLICE ON TIP
[1](#)H. 07 KUALA LUMPUR 1568 - GOM UPDATES ON ANTI-TIP LAW
[1](#)I. 07 KUALA LUMPUR 1236 - MALAYSIA ENACTS ANTI-TIP
LAW
[1](#)J. 07 KUALA LUMPUR 00834 - MALAYSIA PASSES
COMPREHENSIVE ANTI-TIP LAW

Summary

[1](#)1. (SBU) Malaysia made significant efforts to combat trafficking in persons during this reporting period, marking a positive shift from previous years. Malaysia's drafting, passage, and enactment of a comprehensive anti-trafficking in persons law represents an important advance in Malaysia's commitment to meet international standards for combating this crime. The government of Malaysia (GOM) took action on most of the elements included in the Tier 3 action plan that the U.S. proposed during the reporting period. The GOM established the National Council for Anti-Trafficking in Persons (National Council). The Council, working with Malaysia's Human Rights Commission (SUHAKAM) drafted a national action plan. The GOM also instituted training programs for law enforcement and government officials with new anti-trafficking responsibilities. The Ministry for Women, Family, and Community Development (Women's Ministry) built two shelters for trafficking victims and trained the shelters' staff, along with newly designated protection officers, but had not opened the shelters as of the end of February pending full activation of the anti-TIP law. The Royal Malaysian Police (RMP) rescued trafficking victims and often referred them to NGOs, the Catholic Church, and foreign embassies that operated shelters and/or provided social services to trafficking victims. The RMP continued to

investigate several trafficking cases, and detained 55 suspected traffickers under the Emergency Ordinance and Restricted Residence Act. Police often referred rescued victims to NGOs, the Catholic Church, and foreign embassies operated shelters. On February 28, the GOM issued three necessary "legislative supplements" bringing the new anti-TIP law fully into effect. Malaysia has yet to comply fully with U.S. minimum standards and should address many shortfalls primarily through full enforcement of its comprehensive anti-trafficking law to include: opening of victims shelters, screening for TIP victims by relevant government agencies, and enforcement action against traffickers under the law. Malaysia was a destination, and to a lesser extent, a transit and source country for adults and minors trafficked for the purposes of forced labor and sexual exploitation. End Summary.

¶2. (U) Embassy's submission for the Eighth Annual Trafficking in Persons (TIP) Report for Malaysia follows. Responses are keyed to paragraphs 27 - 30 of ref A. Embassy's point of contact for TIP is political officer Enrique R. Gallego (phone: 603-2148-4891 or 984-4831 (IVG), fax: 603-2168-5165, email: gallegoer@state.gov). The Embassy spent the following time preparing the TIP report: FS-2: 12 hours; FS-3: 60 hours; FSN: 40 hours.

¶3. CHECKLIST (PARA 27)

¶A. (SBU) Malaysia was a destination, and to a lesser extent, a transit and source country for adults and minors trafficked for the purposes of forced labor and sexual exploitation. The overwhelming majority of victims came to Malaysia seeking greater economic opportunities, but later found themselves

victimized either by their employers, employment agents, or traffickers that supplied migrant laborers and prostitutes in Malaysia. Trafficking in Malaysia was a regional problem driven by economics. Migrant workers from Indonesia, Nepal, India, Thailand, China, the Philippines, Burma, Cambodia, Bangladesh, Pakistan, and Vietnam accounted for nearly all of Malaysia's trafficking victims. Trafficking of Malaysians, specifically women from indigenous groups and rural areas, for labor and sex exploitation occurred within Malaysia. There were no accurate statistics for the total number of trafficking victims in Malaysia. Malaysia employed approximately 2.5 million migrant workers in 2007, 40 to 45% of whom were undocumented. Government and NGO statistics assess there are some 380,000 to 400,000 women employed as domestic servants in Malaysia, an unknown number of whom worked in abusive situations exacerbated by conditions of debt bondage. Tenaganita and foreign embassies reported migrant workers on plantations and construction sites were often subject to similar restrictions on their movement, deceit and fraud concerning their wages, confiscation of their passports, and often were in debt bondage to agents or employers. There were no reliable statistics for the number of victims trafficked into prostitution, but the Royal Malaysian Police (RMP), foreign embassies and NGOs reported at least 800 female victims were rescued from trafficking conditions in the commercial sex trade in 2007. Approximately 20 percent of the trafficking victims sheltered and rescued by NGOs and foreign embassies were below the age of 18. The Women's Ministry sought to contract a statistician to develop a new database so the Ministry could better document trafficking. The draft national action plan included using data collection to analyze the scale and nature of trafficking in Malaysia.

¶B. (SBU) Most trafficking victims in Malaysia were economic migrants seeking better wages than those available in their countries of origin. Anecdotal evidence from the Indonesian Embassy, GOM, the press, and NGOs indicated Indonesia, the dominant source of migrant labor to Malaysia, remained the source of the greatest number of trafficking victims. Our interviews with trafficking victims revealed a common pattern. Typically, an employment agent recruited the trafficking victim from his or her home village, in the first

step of a debt-bondage arrangement with a Malaysian employer.

For an initial payment, or more often for a certain debt, the recruiter obtained a passport (with false data for underage girls, usually showing the girls' age as 25), an exit permit, and transportation from Indonesia to Malaysia. Upon arrival, a Malaysian employment agent assumed control of and assisted with entry. The Malaysian employment agents often avoided individual immigration inspection of the trafficking victims. Generally, the Malaysian employment agent paid the Indonesian agent for supplying the worker, or the worker acquired additional debt with the new agent for placement, employment documentation, transportation, temporary lodging, etc. Employment agents placed most workers in their previously agreed positions as domestics, agricultural workers, etc. However, some agents sold individuals into brothels, karaoke bars, or passed them to sex traffickers. Employers commonly confiscated workers' passports. Some employers forced laborers to work long hours, without pay, until the debt-bond was paid. Reportedly, similar modus operandi applied to migrant workers from Bangladesh and Vietnam.

(SBU) Regardless of their origin, victims of trafficking were usually poor, uneducated, unskilled laborers recruited by their fellow citizens but later passed to Malaysian agents. Some victims were willingly smuggled into Malaysia or entered on tourist visas, but found themselves victimized when they voluntarily or involuntarily entered the undocumented labor market. Debt bondage was the most common form of control employers exerted over victims, regardless of whether the victim was employed in licit or illicit activities. Information from the Royal Malaysian Police, Catholic Church, and the NGO Tenaganita indicated organized syndicates represented the bulk of traffickers (reftels E and G). Exploiters ranged from large plantations and factories to

entertainment centers and karaoke bars to families exploiting domestic workers. The RMP reported that a number of large organized criminal syndicates, as well as a few smaller groups, trafficked foreign women into Malaysia, using Malaysia either as the women's final destination or as a transit point to a third country. The syndicates sometimes used employment agencies as fronts for both people smuggling and trafficking in persons. Sex tourism was not common in Malaysia though there were reports of sex tourism on the Malaysian island of Labuan, off the coast of Borneo (reftel F). There were a few reports of marriage brokers selling Vietnamese and Chinese women to Malaysian men, but such incidents appeared limited in number.

1C. (SBU) The newly formed National Council for Anti-trafficking in Persons is made up of government agencies with a role in combating trafficking as mandated in the new anti-TIP law (reftels D, I, and J). The Ministry of Internal Security is the lead ministry regarding trafficking and the Secretary General of the Ministry chairs the Council. Other

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agencies with representation on the Council are: Ministry of Foreign Affairs; Ministry of Home Affairs; Ministry of Women, Family, and Community Development; Ministry of Human Resources; Ministry of Transport; Ministry of Information; the Attorney General's Office; the Royal Malaysian Police; the Department of Immigration; the Department of Customs; and the Malaysian Maritime Enforcement Agency. Malaysia's Human Rights Commission (SUHAKAM) also sits on the Council.

1D. (SBU) The police conducted internal training regimes to build capacity to address identified gaps in capabilities, which included identifying trafficking victims, evidence collection and management, and interagency and international coordination (reftels G and H). The RMP worked with the United States, France, and Australia to develop training programs. The Women's Ministry lacked practical experience assisting trafficking victims and organized training for Ministry officers, tapped as trafficking victim protection officers, and personnel tasked to operate trafficking victims' shelters (reftel D). Low-level corruption remained

a secondary issue in stemming the flow of trafficking victims. The RMP instituted a proactive anti-corruption campaign to combat low-level corruption. Low-level immigration officials and police "beat cops" were among Malaysia's lowest paid public servants, making them vulnerable to corruption.

1E. (SBU) The GOM did not maintain specific statistics for trafficking in persons. The RMP and Immigration Department provided anecdotal reports on trafficking victims rescued but had little or no data to share on actual trafficking victims.

Two local NGOs, Tenaganita and the Women's Aid Organization (WAO), and the Embassies of Thailand, Indonesia, and the Philippines reported the RMP referred over 300 suspected victims of trafficking to their respective missions in 2007. At least 25 women, all Indonesians employed as domestic workers, were underage when brought to Malaysia. In each case, they used authentic Indonesian passports, provided by recruiters, with false biographical data listing all of the girls as 25 years old.

14. INVESTIGATION AND PROSECUTION OF TRAFFICKERS (PARA 28)

1A. (SBU) In this reporting period, the GOM completed drafting and passed the comprehensive Anti-trafficking in Persons Act (Act 670), gazetted on July 26, 2007 (reftels I and J). The law includes provisions for both trafficking in persons for sexual and non-sexual exploitation. The law's scope encompasses offenses that took place both in and out of Malaysia. The law is applicable if Malaysia is the receiving country or exploitation occurs in Malaysia. The law also includes cases when the receiving country is a foreign country, but the trafficking victim started in or transited through Malaysia. The law includes extension of the Act to extra-territorial offenses including on ships and aircraft registered in Malaysia and Malaysian citizens and permanent residents outside and beyond the limits of Malaysia

benefiting from the exploitation of trafficking victims. The law states it is the prevailing law regarding trafficking in persons and supersedes conflicting or inconsistent provisions of other written laws.

(SBU) Since gazetting the law in July 2007, the GOM brought the anti-TIP Act into force in a step-by-step process. On February 28, 2008, the GOM issued three necessary "notifications of legislative supplements," essentially administrative notifications that put all sections of the law into force, according to the Attorney General's Office. The notifications were legal preconditions for Malaysian police and prosecutors to take law enforcement actions under the anti-TIP law (as well as open shelters for victims, see below).

(SBU) The law's definitions of trafficking include both trafficking of persons and trafficking of children for the purpose of exploitation. If persons convicted of trafficking also used threats, coercion, abduction, fraud, deception, abuse of power, etc., the law provides for lengthier prison sentences. The law includes provisions for punishing persons profiting from the exploitation of trafficking victims.

(SBU) Malaysia has other laws that can criminalize trafficking or elements of trafficking. The following is a summary of the legal provisions that authorities could use in Malaysia against traffickers in addition to the new comprehensive anti-TIP law.

-- Constitution, Articles 6(1) and 6(2): Prohibit slavery and forced labor.

-- Penal Code, Sections 340-348: Address "wrongful confinement" of a person against his/her will. Punishments include maximum prison terms from one to three years and a fine.

-- Penal Code, Section 372: Amended in 2002 to include

stronger anti-trafficking language, addresses exploitation of any person for purposes of prostitution. Exploitation is defined to include selling, hiring, or otherwise obtaining possession of any person with the intention to employ or use the person for the purpose of prostitution (either inside or outside of Malaysia) or knowing or having reason to believe that the person will be so employed or used. Section 372 expands the offense of exploitation to include using false pretense or deceitful means to bring into or take out of Malaysia any person; harboring or receiving any (exploited) person and wrongfully restraining any person in any place. Wrongfully restraining is further defined as withholding clothing or property, threatening the person with legal proceedings to recover any debt or alleged debt, and detaining a person's identity card or passport. Punishment under this section of the Code includes a prison term, which may extend to 15 years, caning and a fine.

-- Penal Code, Section 372A: Provides the same penalties as section 372 for anyone who lives wholly or in part on the earnings of the prostitution of another person.

-- Penal Code, Section 373: Provides the same penalties as section 372 for anyone who keeps, manages, or assists in the management of a brothel.

-- Penal Code, Section 374: Addresses unlawful compulsory labor and includes punishment by imprisonment for a maximum one-year term and the possibility of a fine.

-- Immigration Act, Sections 55(A) and Sections 56(1)(d): Covers a wide spectrum of immigration violations related to illegal entry or entry under false pretenses. The Act also addresses "employing" and "conveying" illegal aliens. The Act was amended in 2002 to toughen significantly punishments for immigration violators. Those convicted of illegal entry face a fine of up to MYR 10,000 (USD 3,125) (USD 1 = MYR 3.2) and/or a prison sentence of up to five years, and caning of up to a maximum of six strokes. The penalty for employing an

illegal alien is a fine of between MYR 10,000-50,000 (USD 3,125-15,625) for every illegal immigrant employed and/or a prison term of up to 12 months. An employer employing more than five illegal immigrants will be imprisoned from six months to five years and caned up to a maximum of six strokes. The penalty for "conveying" (trafficking) illegal immigrants is a fine of MYR 10,000-50,000 (USD 3,125-15,625) for every individual trafficked. An individual convicted for trafficking more than five illegal immigrants will also be imprisoned for between six months and five years, and caned up to a maximum of six strokes.

-- Child Act (2001): Merges provisions from an array of diverse legislation pertaining to children and young persons (the Women and Girls Protection Act, the Juvenile Court Act, and the Child protection Act) into one law. The Act specifically prohibits trafficking of children and makes it an offense to sell, let to hire, or procure (by threat or intimidation by false pretense, fraud, or deceit) any child (defined as anyone under the age of 18) for the purpose of sexual exploitation. Penalties for these offenses are a maximum prison term of 15 years and a maximum fine of MYR 50,000 (USD 15,625). The Child Act also authorizes the police to provide protection and rehabilitation for children in need. A child in need is defined to include a child who "is being induced to perform any sexual act, or being in any physical or social environment which may lead to the performance of such act".

-- Passports Act: Criminalizes the forgery or alteration of travel documents (including passports, residence permits, and visas). Also criminalizes false statements or misrepresentation used to gain illegal entry into Malaysia. Penalties range from MYR 10,000-100,000 (USD 3,125-31,250) fine, 5-10 years in prison, and six strokes of a cane. Section 12(1)(f) of the Passports Act also criminalizes the unlawful possession of another person's passport; the penalty for which is a fine not exceeding MYR 10,000 and/or

imprisonment not exceeding five years.

Preventive Laws:

-- The Emergency (Public Order and Prevention of Crime) Ordinance (EO): Used against persons, usually criminal syndicates that are involved in illicit activities (such as violent crime, document forgery and people smuggling), which threaten public order.

-- Restricted Residence Act (RRA): Allows the government to require individuals who are suspected of engaging in criminal activity including trafficking to move to a pre-determined location in the country and remain there under close police supervision. The RRA does not require a formal charge to be filed against the suspected individual.

1B. (SBU) The new comprehensive anti-TIP law does not distinguish between trafficking for sexual and non-sexual exploitation. In both cases, the law includes the same guidelines for imprisonment and fines. The Attorney General's office did not convict anyone specifically for trafficking in persons for sexual exploitation, but detained 34 suspected traffickers under RRA and 21 suspected traffickers under EO in 2007. The 55 suspected traffickers were allegedly involved with trafficking for sexual exploitation.

1C. (SBU) If convicted of trafficking in persons under the new anti-TIP law, a person is subject to a maximum sentence of 15 years and a fine. For cases involving coercion, fraud, deception and cases of child trafficking, the maximum sentence is 20 years and fine. Profiting from the exploitation of a trafficking victim carries a maximum sentence of 15 years and a fine of ranging from MYR 50,000 - 150,000 (USD 15,625 - 46,875). The law makes inadmissible and irrelevant prior consent of the trafficking victim and past sexual behavior.

1D. (SBU) The prescribed penalties for rape include a maximum sentence of 20 years and caning. If the woman is hurt, "put in fear of death," is under 16 years of age, pregnant, or a victim of incest, the maximum sentence is 30 years and caning. If the victim dies, the sentence is 15-30 years and a minimum caning of ten strokes. Under Malaysian law, rape is a crime of a man against a woman. Rape between men is covered under a different section of the law with sentence guidelines of 5-20 years imprisonment and caning.

1E. (SBU) Federal law criminalizes profiting from prostitution and bans pornography. The law also criminalizes the act of prostitution for foreigners. Although not widely enforced, under Malaysia's dual legal system incorporating shari'a courts, Muslims are subject to Islamic laws prohibiting khalwat, or "close proximity", between men and women who are not married to each other. Punishments varied from state to state, usually included a fine and jail sentence, but in most cases were settled with a warning and did not involve selling of sexual services. Under federal criminal law, solicitation and operating and/or owning a brothel are criminal offenses. These laws were enforced. Child prostitution is not legal.

1F. (SBU) The GOM formally brought into force the law enforcement provisions of the anti-TIP Act as of February 28, 2008, according to the Attorney General's Office (see above). Pending this step, the GOM did not prosecute traffickers under the new anti-TIP law. The GOM took other legal actions against traffickers and the RMP had several pending investigations into TIP rings as of late February. On November 23, 2007, a Malaysian court convicted a 32-year old, HIV positive Malaysian citizen for procuring a 14-year-old girl for sex. He received a sentence of 43 years in jail, 20 strokes of the cane, and fined MYR 50,000 (\$15,625). Police arrested a couple in Sabah on January 26, 2008 for holding seven Filipina women to work as prostitutes. The couple recruited the seven women with promises of jobs as

waitresses. The couple remained in detention and the case remained under investigation at the end of February.

(SBU) The RMP reported it actively investigated cases of trafficking involving victims of commercial sexual exploitation. Police efforts to break criminal syndicates were complicated by layers of intermediaries, some of whom reside outside Malaysia. Often trafficking victims, both Malaysians who have gone abroad and foreigners brought to Malaysia, may only know one intermediary, who is probably using a false identity. In investigating cases of trafficking, police investigators attempted to question repatriated Malaysian victims as soon as they returned, but the victims usually could not or refused to provide enough information to assist the investigation. In some cases, rescued victims feared retaliation by the traffickers. In other cases, such as the rescue of four Filipina women trafficked into prostitution in November 2007, the women preferred to assist police in their countries of origin.

(SBU) Some of the investigations involved raids to rescue trafficking victims. A recent raid, in January 2008, rescued 34 suspected trafficking victims hidden in a false room within a hotel. The RMP were actively pursuing leads resulting from the rescue/raid at the end of the reporting period.

(SBU) According to Malaysia's Director of Immigration Enforcement, the government did not prosecute employers who confiscated passports of migrant workers although confiscation of passports is in violation of Section 12(1)(f) of the Passports Act. It was common practice for the wages of the employee to be held in "escrow" until completion of a contract and widely accepted by homeowners employing a domestic servant, plantation owners, or small factory owners employing migrant laborers. Police did not charge most bona fide traffickers, but jailed them under preventive laws. This was consistent with law enforcement actions taken against terrorists, narcotics traffickers, and perpetrators of other complex criminal conspiracies. Generally, authorities charged petty pimps under the penal code. The

chief of the RMP's vice squad did not see any end to the use of preventive laws in tackling trafficking issues, even with a new anti-trafficking law, due to the difficulties in collecting evidence necessary to bring proper convictions.

1G. (SBU) The GOM provided specialized training to government personnel with responsibilities to combat trafficking under the new law. The Women's Ministry conducted a series of training events to build capacity for its new trafficking victims protection officers. The RMP also conducted various training events, both internal and training assisted by the U.S. Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP) and the governments of Australia and France. The RMP participated in two workshops sponsored by ICITAP in co-operation with the French government. The RMP co-hosted one of the workshops in the east Malaysian state of Sarawak. In November, an ICITAP instructor met with senior RMP officials to discuss the basic elements of the new anti-TIP law and to share experiences from other regional countries' efforts to confront trafficking. The government sponsored or co-sponsored a number of conferences and workshops aimed at developing implementation guidelines for the new anti-TIP law, formulating strategies aimed at preventing trafficking. Both Tenaganita and SUHAKAM presented a series of workshops to government representatives on TIP throughout the year. The Malaysian Armed Forces received TIP awareness training prior to peacekeeping deployments.

1H. (SBU) Malaysia, the Philippines, Indonesia, Cambodia, Brunei and Thailand used the guidelines of the multilateral "Agreement on Information Exchange and the Establishment of Communication Procedures" as a framework for cooperation on border and security incidents, transnational crimes (including trafficking in persons), and other illegal activities. Malaysia was an active partner in the "Bali

Process," a regional mechanism to combat people smuggling and human trafficking initiated by Australia and Indonesia.

(SBU) Additionally, Malaysia shared intelligence on trafficking syndicates with the United Kingdom, Australia, and Interpol. The Sabah state government maintained an agreement with the government of the Indonesian province of East Kalimantan to cooperate on a range of shared cross-border challenges, including finding and arresting human traffickers and dismantling syndicates.

¶I. (SBU) There were no extraditions of Malaysian nationals for trafficking offenses in 2007. Section 108A of the Penal Code allows Malaysian authorities to prosecute a Malaysian who commits or abets a crime in another country that would be deemed an offense under the Penal Code. Malaysia is a party to the ASEAN Mutual Legal Assistance Treaty, which is designed to facilitate and expedite regional cooperation in fighting transnational crime. Malaysian law does not prohibit extradition of Malaysian nationals. The Philippines and Indonesian Embassies reported that the RMP cooperated with them on anti-trafficking law enforcement matters.

¶J. (SBU) There were no substantiated reports of direct government involvement in trafficking of persons at either the local or institutional level. Senior RMP officials and NGOs reported local police and immigration authorities often lacked the awareness and skills to identify trafficking victims trapped in prostitution or situations of forced labor. The RMP developed new procedures to increase police officers' abilities to identify trafficking victims.

¶K. (SBU) No government officials were implicated, arrested, or tried for involvement in the trafficking in persons or corruption related to trafficking in persons.

¶L. (SBU) All troops assigned to peacekeeping missions received training on trafficking in persons at Malaysia's Peacekeeping Training Center at Port Dickson. There were no allegations that Malaysian servicemembers were involved in TIP or exploited trafficking victims.

¶M. (SBU) Malaysia did not have an identified child sex tourism problem, although there were known instances of victims under 18 years of age that were trafficked for sexual exploitation.

¶5. PROTECTION AND ASSISTANCE TO VICTIMS (PARA 29)

A/B/C. (SBU) The RMP referred over 200 suspected trafficking victims to NGO and embassy operated shelters. The government prepared, but did not open two designated trafficking victims' shelters during the reporting period. The GOM did not release budgetary information regarding the two shelters.

Some suspected trafficking victims continued to be housed at immigration detention centers, pending repatriation, but were not charged under immigration or other possible violations. There was no information available regarding funding and assistance the GOM provided to trafficking victims and to NGOs involved in combating trafficking.

¶D. (SBU) The Royal Malaysian Police instituted an informal referral process referring known victims to their respective embassies and the Tenaganita TIP shelter. Police also delivered some suspected TIP victims to immigration detention centers. The RMP and the National Council were developing procedures for identifying victims of trafficking and a formal system for referring known victims to appropriate care facilities.

¶E. (SBU) N/A

¶F. (SBU) Potential victims continued to be charged for prostitution and immigration charges. If victims were not identified, they were often fined and later deported as illegal immigrants.

¶G. (SBU) The Malaysian government encouraged victims to assist in the investigation and prosecution of traffickers, but reported that most victims were unwilling to testify or did not have sufficient information to assist in a prosecution. A trafficking victim may file a civil suit against a trafficker under Malaysian law. Many migrant workers filed civil suits against employers that did not pay them the salary promised or forced them to work in abusive conditions. While there were no specific impediments to the victims' access to such legal redress, they usually were not allowed to obtain employment while the court considered their cases. Thus, for economic reasons victims usually did not pursue this type of action. Victims who were material witnesses in court cases against former employers were also required to remain in the country until the case was concluded. Most victims were unwilling or unable to wait for justice, and returned home without their cases coming to trial. There were no government restitution programs for victims during the reporting period.

¶H. (SBU) The GOM referred over 200 victims to shelters, operated by NGOs and embassies, during the reporting period. Pending opening of the shelters established by the new anti-TIP law, the GOM did not provide shelter or housing benefits. In some cases, child victims were referred to their embassies for repatriation. One of the two government-funded trafficking victims' shelters was designated for children and has a capacity for 45 individuals. Immigration authorities did not use a formal system to screen detained foreign prostitutes for identification as trafficking victims. Instead, immigration officials processed them for the quickest possible deportation. In some cases, especially those involving deportation over land borders such as along the Malaysian-Indonesian border on Borneo, this made trafficking victims vulnerable to traffickers operating near the border.

¶I. (SBU) Protection officers from the Women's Ministry received specialized training for assisting trafficking victims (reftel D). The RMP also initiated training on trafficking victim identification. Information was not available regarding specialized training for assisting child victims. GOM did not provide training to its embassies and consulates located in destination and transit countries.

¶J. (SBU) Repatriated Malaysian victims who did not have the support of family or friends were referred to the Women's Ministry for public assistance. The welfare wing of a political party, the Malaysian Chinese Association (MCA), also offered services to repatriated victims.

¶K. (SBU) Tenaganita offered comprehensive services to TIP victims. Tenaganita worked with the RMP, various international organizations, including the International Organization for Migration and the United Nations High Commission for Refugees, as well as with other foreign NGOs to combat labor and sex trafficking throughout Malaysia. Previously, Tenaganita received funding from G/PRM to operate their shelter for TIP victims. Tenaganita's shelter can house up to 25 women. Most victims remained at the shelter for an average of three months. Tenaganita provided counseling, medical assistance and language training to foreign and domestic victims of trafficking. The NGO Women's Aid Organization (WAO) used its domestic violence shelter to house eight trafficking victims during the reporting period. WAO provided counseling services and assisted the RMP interview victims. The Malaysian Bar Council and the International Federation of Women Lawyers (IFWL) continued to provide pro bono legal assistance to victims of trafficking.

¶6. PREVENTION (PARA 30)

¶A. (SBU) The GOM acknowledged that trafficking is a problem and senior Malaysian leaders spoke publicly about the need for action. When the Anti-TIP law was first tabled in parliament, Minister in the Prime Minister's Office Nazri

Aziz said, "This law will address concerns raised about human trafficking and arm enforcement agencies with the tools to fight it." Commenting on the drafting of the new comprehensive anti-TIP law, Prime Minister Abdullah Badawi said, "We do whatever we can to curb human trafficking and that is why we decided to have that bill." He added that the severity of the penalties and punishment for human traffickers in the law reflected the government's will to see the crime stopped. Secretary General for the Ministry of Home Affairs Aseh Che Mat publicly stated that the issues of abused and unpaid maids needed to be addressed and properly handled. SUHAKAM Commissioner N. Siva stated, "We need co-operation from non-governmental organizations, government agencies and other instruments in neighboring countries to curb this organized trans-national crime." On January 11, 2008, Prime Minister Abdullah Badawi and Indonesian President Yudhoyono issued a joint statement that reiterated their countries' stance that TIP was a crime against humanity and restated the commitment of both leaders' to work together to combat trafficking.

1B. (SBU) The GOM did not sponsor anti-trafficking information or education campaigns during the reporting period.

1C. (SBU) Government agencies worked closely with NGOs, civil society organizations, and international organizations on TIP during the reporting cycle. The GOM collaborated with SUHAKAM during the drafting of the national action plan. SUHAKAM was the lead agency during the drafting of the plan, which was presented to the Ministry of Internal Security in December 2007 for adoption and implementation (reftel D). Police worked with Tenaganita and the Catholic Church to shelter and assist repatriating rescued trafficking victims to their countries of origin. Police cooperation with the Catholic Church provided an international network capable of linking rescued victims with NGOs and civil society organizations in their countries of origin. Tenaganita worked with police in assisting over 100 rescued TIP victims during the reporting period.

D.(SBU) As part of the new comprehensive anti-TIP law, the National Council, law enforcement agencies, and, the Women's

Ministry established working groups to develop and implement new TIP monitoring procedures. The Department of Immigration began to deploy a new biometric system intended for all border entry points to screen individuals for prior entry into Malaysia. This system also guarded against entry under assumed identities, which traffickers often used when bringing victims through border crossings. Additionally, the biometric system guarded against traffickers attempts to re-traffic a previous trafficking victim to Malaysia.

1E. (SBU) The National Council for Combating Trafficking is the formal interagency group, formed under the new anti-TIP law. The Council met three times during the reporting period to address initial implementation of the new law. The Council established three committees, Law Enforcement, Protection, and Legislative, to develop new operating procedures and deal with specific issues, identified as necessary for the implementation and enforcement of the new anti-TIP law. The Anti-Corruption Agency (ACA) is responsible for investigating alleged public corruption.

1F. (SBU) SUHAKAM drafted the GOM's national action plan. The plan addressed four main components, 1) prevention and awareness, 2) victim protection, care, and support, 3) legislative framework and policy development, and 4) law enforcement. SUHAKAM consulted with local NGOs during its initial drafting of the action plan. During the final drafting, SUHAKAM representatives joined a working group led by the Ministry of Internal Security to finalize the draft before the action plan was presented for adoption to the Ministry of Internal Security in December 2007.

1G. (SBU) The RMP conducted multiple police investigations and raids during the reporting cycle. Police targeted raids

on venues used as fronts for brothels, such as karaoke bars, hotels, spas, etc.

(SBU) In January 2008, Mohamed Ishak, Director General for Enforcement in the Department of Immigration, issued a public warning to potential employers of foreign workers. He said employers could be charged under the new anti-TIP law for cases involving abuse and exploitation of foreign workers. The Department of Immigration began issuing to foreign students and workers new identification cards to use in lieu of passports to show legal status in Malaysia. Director General of Immigration Wahid stated the card gave a possible trafficking victim a greater chance to escape abusive employment without the fear of being mistaken for an illegal immigrant (reftel D).

I. (SBU) All Malaysian troops assigned to peacekeeping missions attended specialized training at the Peacekeeping Training Center in Port Dickson, Malaysia. Training included embedded modules on trafficking in persons. No charges or allegations of misconduct were filed against Malaysian servicemembers during the reporting period.

7. NOMINATION OF HEROES & BEST PRACTICES (PARAS 31 & 32)

(SBU) Post submits as best practices Sections 16 and 17 of Malaysia's comprehensive Anti-trafficking in Persons Act 2007. Section 16 states that a trafficker cannot use as a defense that the victim consented to the act of trafficking in persons. Section 17 states that the past sexual behavior of a trafficking victim is irrelevant and inadmissible for proving the trafficked person was engaged in other sexual behavior or to prove the trafficked person's sexual predisposition. These two sections of the new law will strengthen law enforcement cases against traffickers and protect a trafficking victim from potential humiliation and re-victimizing on the witness stand. Dr. Mohamed Mattar, an internationally recognized expert on TIP legislation from Johns Hopkins University, identified these two sections of Malaysia's law and highlighted them during discussions with GOM representatives (reftel D). Post provided the full text of Malaysia's comprehensive anti-trafficking law to G/TIP and EAP.

KEITH